IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24566 of 2004

Between:

G. Srinivasa Rao S/o Kutumba Rao
R/o 10-5-2/1/2, Masab Tank, Hyderabad

..... PETITIONER

AND

1 The Secretary, Regional Transport Authority, West Zone, Hyderabad
2 Asst. Motor Vehicle Inspector, Enforcement O/o DTC., Kakinada East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ or order, direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in seizing and detaining the petitioner's Vehicle bearing Registration No. AP 13W 5739 vide Vehicle Check Report No. 1843799, dt 01-11-2004 as illegal arbitrary and unconstitutional and consequently direct the respondents to release the vehicle bearing No. AP 13 W 5739 to the petitioner herein and to pass such other order orders

Counsel for the Petitioner: MR.B.CHANDRA SHEKHAR

Counsel for the Respondents: GP FOR TRANSPORT

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24566 of 2004

ORDER:

The petitioner has filed this writ petition seeking a direction to the respondents to release his Vehicle bearing Regd.No.AP 13 W 5739.

2 . The 2nd respondent seized the petitioner's vehicle under check report bearing No.1843799, dated 01-11-2004 for violation of certain irregularities and seized the vehicle.

3. The learned counsel for the petitioner has contended that the petitioner made a representation, dated 02-11-2004 and again sent an application on 22-12-2004 to the 1st respondent requesting him to release the vehicle, but the 1st respondent refused to release the vehicle. Therefore, he prays to grant interim custody of the vehicle to the petitioner. The counsel has further contended that if any violations are made, the petitioner will be liable to pay the amount.

4. The learned Government Pleader for Transport has opposed the application

filed by the petitioner on the ground that the petitioner has to approach the 1st respondent-Regional Transport authority for grant of interim custody of the vehicle and appropriate orders have to be passed by the 1st respondent, but the petitioner, without approaching the 1st respondent, has filed this writ petition.

5. As per the check report, dated 01.11.2004, the 2nd respondent seized the vehicle of the petitioner for violation of certain irregularities. Though it is asserted in the affidavit that the petitioner made representations dated 02-11-2004 and 22.12.2004 respectively, the 1st respondent has not taken any steps for grant of interim custody of the vehicle since the vehicle is being used for the purpose of carrying goods. Therefore, it would be appropriate to direct the interim custody of the vehicle to the petitioner.

6. In the light of the above circumstances, the 1st respondent-Deputy Transport Commissioner is directed to release the vehicle of the petitioner for interim custody on condition that the petitioner deposits Rs.7,500/- (Rupees Seven Thousand Five Hundred Only) on the following terms and conditions:

1. *That the petitioner shall not transfer the vehicle to any other person without the permission of the 1st respondent.*
2. *That the petitioner shall not change the engine or any part of the vehicle.*
3. *That the petitioner shall produce the vehicle as and when required by the authorities concerned.*
4. *That the petitioner shall participate in the enquiry that is going to be conducted by the 1st respondent after receipt of show cause notice by filing his explanation.*
5. *That the tax, if any, may be adjusted out of the amount deposited by the petitioner.*

The 2nd respondent may take further steps for recovery of the tax from the petitioner.

7. Accordingly, the writ petition is disposed of in terms of the above directions. There shall be no order as to costs.

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December 29, 2004

Note:

Furnish C.C. by tomorrow.

B/o.

Kvr

To

1. The Secretary, Regional Transport Authority,

West Zone, Hyderabad

2 The Assistant Motor Vehicle Inspector,

Enforcement O/o DTC.,

Kakinada, East Godavari District

3. 2 CCs to G.P. for Transport,

High Court Buildings, Hyderabad (OUT)

4 2 C.D copies.